IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.71 OF 2007

M/s.Chaitanya Developers ...Petitioners.

Vs.

1. The State of Maharashtra,
2. Mr.Shivram Sakharam Gurav, &
3. Mr.Suryakant Janardhan Gharat. ..Respondents.

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Mr.A.M.Sarogi, Advocate for the Petitioners.
Mr.S.S.Pednekar, APP, for the State-Respondent 1.
Mr.C.M. Savgave, Advocate for Respondents 2 & 3.

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CORAM : SMT.RANJANA DESAI AND
SMT.V.K.TAHILRAMANI,JJ.

DATED : JANUARY 25, 2007.

P.C.:-

1. We have heard Mr.Sarogi the learned counsel for the petitioners, Mr.Pednekar the learned APP for the State-respondent 1 and Mr.Savgave the learned counsel for respondents 2 & 3.

2. The petitioners have *inter alia* prayed for a direction for quashing the First Information Report being C.R.No.444 of 2006 registered under Sections 452, 454, 143, 145, 147, 149, 443, 427, 354, 392, 395, 120(b) of IPC at Dadar Police Station, Mumbai.

The second respondent had filed a complaint alleging that the petitioners had demolished his house bearing Room No.B/8, 2/3 standing at Ram Sham Wadi, Bhawani Shankar Road, Dadar (W), Mumbai.

3. We are informed by the learned counsel for the petitioner and the learned counsel for the contesting respondents 2 & 3 that the parties have amicably settled their dispute. The learned counsel for respondent 2-original complainant states that the second respondent does not want to prosecute the complaint in view of the settlement. He submitted that inasmuch as the offences as alleged in the complaint are non-compoundable, this Court should quash the FIR, in its jurisdiction under Articles 226 and 227 of the Constitution of India and under Section 482 of the Code of Criminal Procedure. In support of his submission, the learned counsel for the petitioner has placed reliance on the judgment of the Supreme Court in **B.S.Joshi Vs. State of Haryana, (2003) 4 Supreme Court Cases 675**.

4. Mr.Pednekar the learned APP for the State drew our attention to the affidavit filed by Gautam

Randive, Police Inspector attached to Dadar Police Station, Mumbai. Mr.Pednekar however does not dispute the fact that the parties have amicably settled the dispute.

5. In our opinion, since the dispute is amicably resolved, it is not desirable to continue the prosecution. Reliance placed on the judgment in **B.S.Joshi's** case (supra) is apt. We may also refer to the judgments of this Court in **(i) Jasmin Vipul Bhatia & Ors. Vs. State of Maharashtra, 2004 All MR (Cri.) 1908, (ii) Mansur A. Khan Vs. State of Maharashtra & Ors., 2004 All MR (Cri) 1911, and (iii) Bhushan s/o Subhash Naphade & Ors. Vs. State of Maharashtra and Anr., 2005 All MR(Cri.) 3041.** We, therefore, deem it appropriate to quash the pending proceedings in the light of the aforementioned judgments. We may also note that the complainant-respondent 2 has filed an affidavit which is annexed to the Petition confirming that the parties have settled their dispute. Hence the following order :-

ORDER

i. The FIR being C.R.No.444 of 2006 registered under Sections 452, 454, 143, 145, 147, 149, 443, 427, 354, 392, 395, 120(b) of IPC at Dadar Police Station, Mumbai is quashed.

ii. Needless to say that if pursuant to the investigation any property is seized by the Police, the same may be returned to the parties.

iii. Writ Petition is disposed of accordingly.

[SMT.RANJANA DESAI,J.]

[SMT.V.K.TAHILRAMANI,J.]